IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No: 18466 of 2004

Between:

1 The Government of Andhra Pradesh, Rep. by its Principal Secretary to Government, Health Medical & Family Welfare (F.II) Department, Secretariat, Hyderabad.
2 The Director of Health, Andhra Pradesh, Hyderabad.

..... PETITIONERS

AND

R. Purushotham Reddy, Joint Director (Leprosy),
O/o. Director of Health, Koti, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ or direction more particularly one in the nature of "WRIT OF CERITIORARI" calling for the records connected with order dt. 21-01-2004 in O.A.No.389/2004 on the file of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad and quash the same as illegal and erroneous.

Counsel for the Petitioners: GP FOR SERVICES I

Counsel for the Respondent: MR.S.SATYAM REDDY FOR RVAK.

The Court made the following:

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ORAL ORDER (PER GB,J.)

The writ petition is filed challenging the interim orders passed by the A. P. Administrative Tribunal in O.A.No.389/2004 dated 21.1.2004.

2. The respondent herein filed O.A. assailing the order passed by the Government in G.O.Rt.No.27, H.M. & F.W. (F.II) Department dated 9.1.2004 in transferring him from the post of Joint Director (Leprosy) in the office of Director of Health, Kothi to the post of District Leprosy Officer, Hyderabad Urban and posting one Sri G.L.Kameshwar Rao in his place.

3. Initially the Tribunal granted stay of the G.O. and on the vacate petition being filed, made the interim stay absolute. Assailing the said order, the present writ petition is filed by the Government.

4. The learned counsel for the petitioners submitted that transfer is the incidence of service and in the instant case the respondent was transferred only in Hyderabad and no prejudice is caused to him. However, the Tribunal considering that the transfer was unwarranted, made the interim stay absolute. He further submitted that the impugned order is illegal and not maintainable in view of the judgments of the Apex Court in **GUJARAT ELECTRICITY BOARD & ANOTHER v ATMARAM SUNGOMAL POSHANI** and **MRS. SHILPI BOSE & OTHERS v STATE OF BIHAR & OTHERS**.

5. On the other hand the learned counsel for the respondent submitted that the order of the transfer is malafide. He submitted that in order to accommodate one Sri G.L.Kameshwara Rao, the 3rd respondent in the O.A., the petitioner was transferred.

6. We are afraid, we cannot accept the contention of the learned counsel for the respondent. The respondent is working as Joint Director (Leprosy) in the office of Director of Health and he was posted in the Hyderabad itself as District Leprosy Officer. It cannot be said that it is a case of reversion or change in the service conditions, inasmuch as, the respondent belongs to cadre of District Leprosy

Officers and so also the other person who was posted in his place. There cannot be any challenge to such orders of transfer. Therefore, we hold that the Tribunal gravely erred in making the stay absolute. Accordingly the order passed by the Tribunal is set aside and interim stay granted is hereby vacated. However, it is desirable that the O.A. shall be disposed of as early as possible, preferably within a period of four weeks from the date of receipt of a copy of this order.

7. The writ petition is allowed. No costs.

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(G. BIKSHAPATHY, J.)

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(B. SESHASAYANA REDDY, J.)

30.11.2004

AVS/ES

To

1 The Principal Secretary, Government of Andhra Pradesh, Health Medical & Family Welfare (F.II) Department, Secretariat, Hyderabad.
2 The Director of Health, Andhra Pradesh, Hyderabad.

3. 2 CCs to the G.P. for Services I, High Court of A.P., Hyderabad (OUT).

4. 2 CD copies.

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